IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 947 of 1983

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHIMABHAI ALIAS CHIMANBHAI S/ODITABHAI @ CHHITUBHAI KATRE - Appellant(s)
Versus
ANVARBHAI MAHMMADBHAI VAHORA & 1 - Defendant(s)

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Appearance :
MR YM THAKKAR for Appellant(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 1,
Ms.JYOTI MEHTA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 15/06/2007

ORAL JUDGMENT

1. Shri Y.M. Thakkar, learned counsel for the appellant; Ms. Jyoti Mehta, learned counsel for

the respondent no.2; none for the respondent no.1.

2. The claimant, being partly aggrieved by the judgment and award dated 26th February, 1982 passed by the M.A.C. Tribunal [Main], Baroda in M.A.C. Case No. 105/81, is before this Court seeking enhancement in the awarded amount.

3. From the records, it does not appear that any Cross Appeal of Cross Objections have been filed challenging the liability and negligence on the part of the driver or vicarious liability of the respondent – Gujarat State Road Transport Corporation. In view of this, the Court must hold that the Tribunal was justified in holding that the driver was rash and negligent, he occasioned the accident and the claimant suffered injuries in the said accident as detailed in the judgment of the Tribunal.

4. Shri Thakkar, learned counsel for the appellant submits that looking to the nature of the injuries which made the appellant-claimant absolutely crippled and 100% disabled, the Tribunal was unjustified in holding that the

disability would be to the tune of 80% only. He also submits that in case of a young man of 27 years, who had future doors open to him, multiplier of 15 would be on the lower side. His further submission is that the Tribunal was unjustified in holding that future loss of income would be Rs. 500/- per month even when it observed that the claimant was in the pay scale of Rs. 275-25-525-EB-35-700 and on the date of the accident, his salary was Rs. 450/- per month. His further submission is that future prospects, increments etc. have also not been taken into consideration. His submission is that the claimant is entitled to full amount as claimed by him.

5. Ms. Jyoti Mehta, learned counsel for the respondent no.2 submits that the Tribunal has given cogent reasons to hold that the monthly salary could be Rs. 500/-. She submits that whether disability was 80% or 100% was not to make any difference, specially when the Tribunal has awarded the loss of income at the rate of Rs. 500/- per month. She also submits that in

case of a person of 27 years, multiplier of 15 would be apt and appropriate. She submits that the Tribunal, rather had been generous in favour of the claimant in making the award.

6. It would be trite to say that in case where compensation is claimed, the Tribunal has not only to assess and ascertain the present income of the person and disability of the injured, but has also to take into consideration the future prospects which would include possibility of increments and earning additional amount. In the present case, the Tribunal had assessed the monthly income at Rs. 500/- and has not taken into consideration the future prospects. According to Shri Thakkar, future income should be assessed at Rs. 750/- while according to Ms. Mehta, future income has been rightly assessed at Rs. 500/-.

7. Taking into consideration that the claimant was in the scale of Rs. 275-25-525-EB-35-700 I would be justified in holding that future prospects would be Rs. 600/- per month, because, after the pay-scale of Rs. 525/- the claimant

had to suffer the efficiency Bar. I accordingly hold that the loss of income every month would be Rs. 600/- which would mean Rs. 7200/- per year. The claimant had suffered amputation of one leg and other leg was absolutely crippled. According to the doctor, the claimant has to lie in the supine position and even he is unable to sit or walk. If such is the condition of the person, then, award of other amounts in favour of the claimant cannot be said to be on the excessive side.

8. So far as the question of multiplier is concerned, the claimant, on the date of the accident/claim petition, was shown to be 27 years of age at which, he could easily work for further period of 31 years if he was to retire at the age of 58 years. In such a case, multiplier of 18 ought to have been applied by the Court. I accordingly apply the multiplier of 18 and hold that towards the future loss of income, the claimant would be entitled to Rs. 1,29,600/- or on the rounded of the figure, he would be entitled to Rs. 1,30,000/-. Out of the

said amount, learned Tribunal has awarded a sum of Rs. 90,000/-. I award further sum of Rs. 40,000/- in favour of the claimant. This additional amount of Rs. 40,000/- would carry 9% interest from the date of the claim petition till realization.

9. The appeal is allowed to the extent indicated above. No costs.

[R.S. GARG, J.]

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